

HEWLETT-PACKARD COMPANY
 Intellectual Property Administration
 P.O. Box 272400
 Fort Collins, Colorado 80527-2400

PATENT APPLICATIONATTORNEY DOCKET NO. 200316365-1**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor(s): Chuck A. Black

Confirmation No.: 1425

Application No.: 10/761,088

Examiner: Brian J. Gillis

Filing Date: January 20, 2004

Group Art Unit: 2141

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Title: NETWORK AND NETWORK DEVICE HEALTH MONITORING

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEFTransmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on September 29, 2008.

- The fee for filing this Appeal Brief is \$540.00 (37 CFR 41.20).
 No Additional Fee Required.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

- (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

 1st Month
\$130 2nd Month
\$490 3rd Month
\$1110 4th Month
\$1730

- The extension fee has already been filed in this application.

- (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of \$ 540. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

- A duplicate copy of this transmittal letter is enclosed.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
 Commissioner for Patents, Alexandria, VA 22313-1450
 Date of Deposit:

Respectfully submitted,

Chuck A. Black

By

Edward J. Brooks III

Attorney/Agent for Applicant(s)

Reg No. : 40,925

Date : 10/27/2008

Telephone : (612) 236-0120

I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number (571)273-8300.
 Date of facsimile: 10/27/2008
 Typed Name: Alison L. Subendran
 Signature:

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Signature:

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OCT 27 2008

Docket No.: 200316365-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/761,088
Appellants: Chuck A. Black
Filed: January 20, 2004
TC/A.U. : 2141
Examiner: Brian J. Gillis
Title : NETWORK AND NETWORK DEVICE HEALTH MONITORING

APPEAL BRIEF

MS APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir or Madame:

This brief, in compliance with 37 C.F.R. § 41.37, is in furtherance of the Notice of Appeal filed under 37 C.F.R. § 41.31 on September 29, 2008.

This brief is accompanied by the fee set forth in 37 CFR § 41.20(b)(2), as described in the accompanying TRANSMITTAL OF APPEAL BRIEF.

10/28/2008 PCOMP 00000015 082025 10761088
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This brief contains items under the following headings as required by 37 C.F.R. § 41.37:

- I. Real Party In Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to be Reviewed on Appeal
- VII. Argument
- VIII. Claims Appendix
- IX. Evidence Appendix
- X. Related Proceedings Appendix

Page 33 of this brief bears the attorney's signature.

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I. REAL PARTY IN INTEREST

The real parties in interest for this appeal are:

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A. The Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"); and

B. HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. RELATED APPEALS AND INTERFERANCES

Appellant is unaware of any related appeal or interference.

III. STATUS OF CLAIMS

A. Total Claims: 1-39

B. Current Status of Claims:

1. Claims canceled: none
2. Claims withdrawn: none
3. Claims pending: 1-39
4. Claims allowed: none
5. Claims rejected: 1-39
6. Claims objected to: none

C. Claims on Appeal: 1-39

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IV. STATUS OF AMENDMENTS

No claims have been amended, cancelled, or added subsequent to the Final Office Action mailed August 22, 2008.

V. SUMMARY OF CLAIMED SUBJECT MATTER

A. Independent claim 1

Independent claim 1 recites a network management station (page 4, lines 26-31; page 5, lines 9-11 and 14-18; page 6, lines 28-33; page 7, line 33, through page 8, line 3; page 10, lines 5-7 and 11-12; page 11, lines 21-27; page 11, line 31, through page 12, line 2; page 12, lines 4-7; and Figure 1 at 112) that includes a processor (page 5, lines 8-13 and 16-18) and a memory coupled to the processor (page 5, lines 8-13 and 16-18).

The network management station also includes program instructions provided to the memory and executable by the processor (page 5, lines 14-20; page 10, lines 3-10; page 11, lines 4-12) to transmit a network management message to a device connected to the network management station over a network (Abstract; page 3, line 32, through page 4, line 3; page 4, line 12, through page 5, line 7; page 5, lines 24-26; page 11, lines 18-29; page 15, lines 5-7; Figure 1 at 100, 110-1, 110-2, 110-3, 110-4, 110-5, 110-6, 110-7, 110-8, 110-9, 114-1, . . . , 114-N, 115-1, . . . , 115-M, 116-1, 116-2, 116-3, 116-4, 118-1, 118-2, 118-3, 118-4, 118-5, and 120; Figure 2 at 210; and Figure 3 at 310), collect response information from the device based on the network management message (Abstract; page 3, line 32, through page 4, line

3; page 5, lines 21-26; page 6, line 28, through page 7, line 2; page 7, lines 14-21; page 11, line 30, through page 12, line 2; page 13, lines 8-12; page 15, lines 7-10; Figure 2 at 220; and Figure 3 at 320), receive unsolicited information from the device (Abstract; page 4, lines 3-4; page 5, line 27, through page 6, line 16; page 6, line 25, though page 7, line 2; page 7, lines 14-21; page 12, lines 3-14; page 12, line 32, through page 13, line 7; page 15, lines 7-10; Figure 2 at 230; and Figure 3 at 320), and analyze the response information and the unsolicited information, which include information regarding device memory utilization (page 6, lines 6-10; page 7, lines 5-11; page 8, lines 10-12 and 16-18; page 9, lines 15-24; page 10, lines 22-26; page 10, line 31, through page 11, line 2; page 12, lines 7-10, 17-21, and 24-27; page 12, line 32, through page 13, line 6; page 13, lines 19-21; page 13, line 28, through page 14, line 2; page 15, lines 7-10; and Figure 3 at 320), buffer utilization (page 7, lines 5-11; page 8, lines 12-14 and 16-18; page 9, lines 15-24; page 10, lines 22-26; page 12, lines 24-27; page 12, line 32, through page 13, line 6; page 13, lines 19-21; page 13, line 28, through page 14, line 2; page 15, lines 7-10; and Figure 3 at 320), local area network (LAN) utilization (page 6, lines 6-10; page 10, line 31, through page 11, line 2; and page 12, lines 7-10), and cyclical redundancy checking (CRC) (page 7, lines 5-11; page 8, lines 12-14; page 10, lines 22-26; page 12, lines 7-10 and 24-27; page 12, line 32, through page 13, line 6; and page 14, lines 28-30), according to a set of heuristics to provide a health measurement of the device (Abstract; page 4, lines 5-8; page 6, lines 6-12 and 17-27; page 7, lines 3-17; page 7, line 30, through page 10, line 3; page 10, line 11, through page 11, line 2; page 12, lines 7-10; page 12, line 15, through page 13, line 6; page 13, line 14,

through page 15, line 2; page 15, lines 7-24; Figure 2 at 240; and Figure 3 at 320 and 330).

Independent claim 1 is argued together with dependent claims 2-11.

1. Claim 2 is dependent from independent claim 1 and recites that the network management station further includes program instructions that execute to compare device processor utilization (page 6, lines 6-10; page 7, lines 5-11 and 14-17; page 8, lines 8-10 and 16-18; page 9, lines 15-24; page 10, lines 22-26; page 10, line 31, through page 11, line 2; page 12, lines 7-10, 17-21, and 24-27; page 12, line 32, through page 13, line 6; page 13, lines 19-21; page 13, line 28, through page 14, line 2; page 15, lines 7-10; and Figure 3 at 320), device memory utilization (page 6, lines 6-10; page 7, lines 5-11; page 8, lines 10-12 and 16-18; page 9, lines 15-24; page 10, lines 22-26; page 10, line 31, through page 11, line 2; page 12, lines 7-10, 17-21, and 24-27; page 12, line 32, through page 13, line 6; page 13, lines 19-21; page 13, line 28, through page 14, line 2; page 15, lines 7-10; and Figure 3 at 320), LAN utilization (page 6, lines 6-10; page 10, line 31, through page 11, line 2; and page 12, lines 7-10), errors (page 7, lines 5-11 and 14-17; page 8, lines 12-14; page 9, lines 15-24; page 10, lines 22-26; page 12, lines 7-10 and 24-27; page 12, line 32, through page 13, line 6; page 14, lines 28-30; page 15, lines 7-10; and Figure 3 at 320), and trap information (page 7, lines 5-11 and 14-17; page 8, lines 12-14 and 16-18; page 9, lines 15-24; page 12, lines 24-27; page 12, line 32, through page 13, line 6; page 13, lines 21-23; page 15, lines 7-10; and Figure 3 at 320) with one or more thresholds as parameters to the set of heuristics (page 7, lines 5-11; page 7, line 30, through page 8, line 15; page 9, lines 15-24; page 12, lines 21-